IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

-

WRIT PETITION NO : 1158 of 2005

Between:

Bashyam Chinnaraj S/o R. Bhashyam
R/o Katavaram, Seethanagaram Mandal, East Godavari District

..... PETITIONER

AND

1. The General Manager, Personnel Admn. Department, UCO Bank (Head Office) 12 Old Court Street Kolkata-1, West Bengal State.

2. Regional Manager, UCO Bank 3-2-624, Ground floor, Road No.10, Banjara Hills, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the respondents in issuing the impugned notice NO. PER/ER/GF/2005/187, DT 10-1-2005 denying the benefits conferred under the payment of Gratuity Act is exfacie illegal, arbitrary and violative of principles of natural justice and also violative of Art 19 and 21 of the Constitution of India and for a consequential order directing the respondents to pay the gratuity to the petitioner with interest @ 12 % per annum as entitled by the petitioner as per the provisions of Gratuity Act, for the services rendered by the petitioner.

Counsel for the Petitioner: MR.CH.DHANAMJAYA

Counsel for the Respondents: MR.V.AJAYAKUMAR

The Court at the admission stage made the following:

ORDER:

This writ petition is filed aggrieved by the action of the respondents in not paying gratuity to the petitioner consequent upon his compulsory retirement from the respondent-Bank.

According to the petitioner, he joined the respondent-Bank as an Assistant Cashier in the year 1971 at Vijayawada and worked in the respondent-Bank in different capacities. However, subsequently he was charge sheeted for certain alleged irregularities and finally he was compulsorily retired by the respondent Bank, pursuant to which, though he is entitled for all the retiral benefits, the respondents did not pay gratuity payable to him. When the second respondent declined to pay gratuity vide letter dated 14.12.2000, he approached this Court by filing W.P.No.19554 of 2004, which was disposed of by this Court on 26.10.2004 directing the respondents to consider whether he is entitled for gratuity as per the Rules in vogue and if so, pass orders within a period of two months. Subsequent to the said order, the

respondents passed the impugned order dated 10.01.2005 informing the petitioner that he is not eligible for gratuity. Hence, the present writ petition.

Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

Prima facie, in the impugned order, it was admitted that the petitioner was compulsorily retired on 13.05.1999. However, while considering the claim of the petitioner for gratuity, the respondents referred to the provisions of the Payment of Gratuity Act, 1972 (for short 'the Act') and by referring to Section 4 (6) of the Act, it was held that the petitioner is not eligible for gratuity. However, a reference to the impugned order, where the provisions of Section 4(6) were extracted, would show that forfeiture of gratuity is only in the cases where the services of employees have been terminated for any act of wilful omission or negligence causing any damage or loss to, or destruction of property belonging to the employer. As, admittedly, the petitioner's services were not terminated, but he was compulsorily retired from the respondent-Bank, the said provision has no application.

When the matter came for admission on 31.01.2005, notice was ordered to the respondents. In fact, the learned counsel for respondents appeared and at his request the matter was adjourned four times. However, the learned counsel for the respondents could not show any other provisions, under which, the petitioner is not entitled for gratuity. The provision referred in the impugned order is clearly not applicable to the present case, as the petitioner's case would not fall under Section 4(6) of the Act. Therefore, the impugned order is liable to be set aside and the same is accordingly set aside. The respondent-Bank is accordingly directed to pay gratuity payable under the Act for the service rendered by the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

30.06.2005

VGB

To

1. The General Manager, Personnel Admn. Department, UCO Bank (Head Office) 12 Old Court Street Kolkata-1, West Bengal State.

2. Regional Manager, UCO Bank 3-2-624, Ground floor, Road No.10, Banjara Hills, Hyderabad

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